

PREAMBLE

This Memorandum of Understanding (the "Agreement") is entered into by the State of Maryland (the "Employer") and the Maryland Federation of Nurses and Health Professionals (MFNHP) (the "Union"), and has as its purpose the promotion of harmonious relations between the Employer and the Union; the establishment of an equitable and peaceful procedure for the resolution of differences without disruption in the workplace; and includes the agreement of the parties on the standards of wages, hours and other terms and conditions of employment for the Bargaining Unit E employees covered hereunder. The Employer recognizes the commitment of the Union and employees to organizational efficiency and high quality services and will actively encourage the sharing of concerns regarding management practices, policies and procedures.

It is understood that agreements on issues requiring approval by the General Assembly of Maryland are tentative pending approval of the General Assembly of Maryland. The provisions of this Agreement shall in no way diminish or infringe any rights, responsibilities, power or duties conferred by law, the Constitution of the State of Maryland and the Annotated Code of Maryland.

The State Employee *Collective Bargaining Law is hereby incorporated by reference in this Agreement as if fully set forth herein and in the event of a conflict between this Agreement and the law, the law shall prevail.

*(The provisions of the Collective Bargaining Law are now included in Title 3 of the State Personnel and Pensions Article)

ARTICLE 1 - RECOGNITION

Section 1.1 Exclusive Representation

This Memorandum of Agreement is between the State of Maryland (the "Employer") and the Maryland Federation of Nurses and Health Professionals (the "Union"). The application and interpretation is between these parties exclusively.

Pursuant to the Collective Bargaining Law, the Employer recognizes the Union as the sole and exclusive representative in all matters establishing and pertaining to wages, hours and other terms and conditions of employment for all employees in Bargaining Unit E. The Employer will not negotiate with any other union or employee organization on matters pertaining to wages, hours and other terms and conditions of employment for all employees in Bargaining Unit E and will meet with other unions or employee organizations only pursuant to its legal and regulatory obligations, when such issues have non-bargaining unit employees impact, when requested or directed by a member of another branch of

government, when members of the general public would have the same ability to meet or when the Governor, or his designated primary representative, decides such a meeting effectuates the purposes of the Collective Bargaining Law.

Section 1.2. Inclusion/Exclusion of Existing and New Classifications

If it is believed that the bargaining unit status of a classification has changed, the Employer or the Union, whichever is proposing the change, shall notify the other. Following such notice, the parties shall meet and attempt to resolve the issue. The Employer will promptly notify the Union of all decisions to establish new classifications. If a new classification is a successor title to a classification covered by this Agreement with no substantial change in duties, it shall become part of this bargaining unit. If a new classification contains a significant part of the work done by this bargaining unit or shares a community of interest with classifications in this bargaining unit, it shall become part of this bargaining unit. The Union may notify the Employer, within thirty (30) days of receiving a notice of a new classification, that it believes the classification should be in this bargaining unit. The parties will then meet to review the classification specifications and attempt to resolve the issue. If, within thirty (30) days of such notice, such issues are not resolved in determining the inclusion/exclusion of classifications, the parties shall consider the following factors:

- a. The community of interest of the employees involved;
- b. The Employer's organizational structure;
- c. The requirements of the Collective Bargaining Law;
- d. The principals of efficient administration of government, including limiting the fragmentation of government administrative authority; and
- e. The recommendations of the parties involved.

Section 1.3. Integrity of the Bargaining Unit

Unless otherwise provided by law, the Employer recognizes the integrity of the bargaining unit and will act consistently with the current statutory policy to use State employees to perform all State functions in State operated facilities in preference to contracting out with the private sector. In the event the Employer proposes to use non-bargaining unit individuals to displace continuing bargaining unit positions, it will provide the Union with notice at the earliest opportunity, but normally at least sixty (60) days in advance. Supervisors will not be assigned posts for the purpose of limiting overtime opportunities for bargaining unit employees except when fiscal or operational exigencies necessitate.

ARTICLE 2 - NON-DISCRIMINATION

Section 2.1. Prohibition Against Discrimination

It is the policy of the State to prohibit discrimination in employment against any employee bargaining unit member or applicant for employment because of race, age color, religion, creed, sex, sexual orientation, political affiliation, country of national origin, disability, marital status, or labor organization affiliations, and to promote and implement a positive and continuing program of equal employment opportunity.

It is the policy of the Union that it shall not discriminate against any bargaining unit member or cause, or attempt to cause, the State to discriminate against any bargaining unit member because of race, age, color, religion, creed, sex, sexual orientation, political affiliation, country of national origin, disability, marital status or labor or organization affiliation.

Section 2. 2. Union Activity

Each employee shall have the right to join the Federation. While off work, or on official release time, employees shall have the right to assist the Union freely, without fear of penalty or reprisal, and the Employer shall assure that each employee shall be protected in the exercise of such right.

Section 2.3. Equal Employment/Affirmative Action/ADA

The parties agree to comply with applicable Federal and State Equal Employment laws, Affirmative Action laws and the Americans With Disabilities Act.

Section 2.4. Representation

The Union recognizes its responsibility as the exclusive bargaining representative for this unit and agrees to fairly represent all employees in the bargaining unit.

ARTICLE 3. MANAGEMENT RIGHTS

The State, through its appropriate officers and employees, had the right to:

- 1) Determine the mission, budget, organization, numbers, types and grades of employees assigned, the work projects, tours of duty, methods, means and personnel by which its operations are to be conducted, technology needed, internal security practices and relocation of its facilities;
- 2) Maintain and improve the efficiency and effectiveness of Governmental operations;
- 3) Determine the services to be rendered, operation to be performed, and technology to be utilized;

- 4) Determine the overall methods, processes, means and classes of work or personnel by which governmental operations are to be conducted;
- 5) Hire, direct, supervise, and assign employees;
- 6) Promote, demote, discipline, discharge, retain, and layoff employees;
- 7) Terminate employment because of lack of funds, lack of work, under conditions where the employer determines continued work would be inefficient or nonproductive, or for other legitimate reasons;
- 8) Set the qualification of employees for appointment and promotion, and set standards of conduct;
- 9) Promulgate state or department rules, regulations, or procedures;
- 10) Provide a system of merit employment according to the standard of business efficiency; and
- 11) Take actions, not otherwise specified in this Article necessary to carry out the mission of the Employer.

ARTICLE 4 - UNION RIGHTS

Section 4.1. Access

The Employer agrees that local representatives, officers and Union staff representatives shall have reasonable access to the premises of the Employer with prior notice and approval by the Employer for the reason of administration of this Agreement. The Union agrees to notify the Employer at least five (5) days in advance of a non-emergency, mass meeting. In emergency situations, the Union may call a meeting during work hours to prevent, resolve or clarify a problem with prior reasonable notice to and approval by the Employer. In addition, upon reasonable notice to and approval by the Employer and consistent with security and public service requirements, union representatives shall have access to the Employer's premises for the purpose of membership recruitment. Approval for access described in this section shall not be unreasonably denied.

Section 4.2. Stewards

The Employer will recognize stewards designated by the Union who will be responsible for investigating and processing grievances and participating in any hearings or conferences related to the grievance. Typically, a grievance will have no more than one (1) steward in attendance. In addition, at

institutions open 24 hours, there shall be a primary steward and an alternate steward designated by the Union on all primary shifts, who will be responsible for non-grievance activities related to the administration of this Agreement and coordinating the activities of other stewards, to ensure the efficient use of release time.

The Union will notify the Employer in writing of the names of the designated stewards prior to them assuming any duties. Designated stewards shall be allowed a reasonable amount of duty time without charge to pay or leave to administer the Agreement and otherwise represent employees under the Collective Bargaining Law, law or regulation. To the extent necessary to participate in hearings and meetings, a designated steward's shift shall be adjusted so that such participation shall be on official duty time. Release from duty and shift adjustments will not be unreasonably denied and will be consistent with the operational needs of the Employer.

Section 4.3. Union Activity During Working Hours

The Employer shall grant time off with pay, consistent with the operational needs of the Employer, including reasonable travel time when necessary, during work hours, the total of which on a daily basis will not exceed the employee's normally scheduled workday, to attend grievance meetings, labor/management meetings, negotiating sessions regarding supplementation or amendment of this Agreement during its term, committee meetings and activities if such meetings or activities have been jointly established by the parties, or meetings called or agreed to by the Employer, if such employees are entitled and required to attend the meetings by virtue of being Union representatives or stewards. Time off with pay will not be unreasonably withheld. The Union will normally provide the Employer with the names of its representatives who need release time within 48 hours of the scheduling of the meeting.

The practices described in Section 12-405 of the State Personnel and Pensions Article shall apply to grievants, witnesses and Union representatives.

The practices described in the current Transportation Human Resources Policy Section 7I, Subsection 9, shall be maintained.

Section 4.4. Release Time Account for Union Activities

On July 1 of each year, the Employer shall credit the Union's release time account with one (1) day for every fifteen (15) dues paying members. Union representatives will be allowed time off with pay charged against the Account consistent with the operational needs of the Employer for Union business such as state or area-wide committee meetings or state or International conventions, preparation time for negotiations or Labor-Management Committee meetings, and union sponsored labor relations training provided such representative provides reasonable notice to his/her supervisor of such absence. Reasonable notice for Union sponsored meetings and conventions listed above is at least thirty (30)

days and the employer shall respond within fifteen (15) days of receiving the representative's notice. Such time off will not be detrimental in any way to the employee's record and will be specifically taken into account when applying performance standards relating to quantity and timeliness of work. Time may be used in one (1) hour increments. Time off with pay will not be unreasonably withheld.

Section 4.5. Meeting Space

Union representatives may request the use of state property to hold union meetings. Upon prior notification, the Employer will provide meeting space where feasible. Such meetings will not interrupt state work and will not involve employees who are working. The Employer shall make space available for Union representatives to have confidential discussions with employees on an as-needed basis subject to availability.

Section 4.6. Bulletin Boards

The Employer shall provide lockable bulletin boards at each work location in areas mutually agreed to on a local basis, for the exclusive use of the Union. The Union shall be responsible for all items posted on the bulletin board. Each item posted shall be dated and initialed by the Union official approving the posting. The Union shall ensure that items are not illegal, defamatory, political, or partisan and that no item is detrimental to the safety and security of the institution. At the time of posting, the Union shall provide a copy of all items to the Employer.

Section 4.7. Mail Service and Computer Mail

The Union shall be permitted to use internal state mail systems, including computer/electronic mail, for membership and bargaining unit mailings. Confidentiality shall be maintained subject to the Employer's security needs. Union mass mailings by internal state mail will be limited to four (4) times per calendar year. The Union shall give the Employer reasonable notice in advance of mass mailings. The Union and the Employer shall develop a system for these mailings.

Section 4.8. Distribution of Union Information

At non-secure facilities, the Union shall be permitted to place and distribute materials at mutually agreed to locations frequented by employees, before and after work, and during breaks and meal periods.

At secure facilities, the Union shall be permitted to place informational materials for employees at the worksite. The information shall be placed at a table provided by the Employer and may have a sign of identification. This placement must be done by an employee or a Union staff representative designated by the Union during the employee's non-working hours. Distribution of materials will be done in a non-secure area during non-work hours.

Section 4.9. New Employee Orientation

The Employer will notify the Union of formal orientation meetings. The Union will be advised of the time and location of orientation meetings as soon as such meetings are scheduled. In the event a formal orientation meeting is not given, the Employer shall allow the Union representative and the employee(s) to meet during duty hours at a mutually agreed to later time for twenty (20) minutes. At the conclusion of all formal orientations, the Union will be permitted to give a twenty (20) minute presentation which may include an enrollment in supplemental union benefits.

Section 4.10. Information Provided to the Union

The Department of Budget and Management shall provide to the Union a list of information, to include: new hires, separations, promotions, transfers and reclassifications (including agency code, position numbers involved, classifications, grades, and effective dates) for all bargaining unit employees. New hire employee information will be provided at the beginning of each month and will include actions processed during the preceding month. Other personnel actions listed above will be provided to the Union on a quarterly basis. The above information shall be provided on a computer tape or disk.

Each agency shall designate an individual who will work with the Union to identify the specific work location of employees in the bargaining unit.

Upon request by the Union, the Employer will provide other necessary and relevant information to the extent not prohibited by applicable law, within a reasonable amount of time.

The Union shall treat the information with confidentiality.

Nothing herein shall be construed to restrict the Union's right to request and receive information in accordance with applicable public information acts.

Section 4.11. Release From Duty Issues

The parties recognize their respective obligations to appropriately administer the Agreement in an efficient manner in the context of effective and efficient government operations. To this end, the Employer and the Union shall each designate a person to discuss and resolve issues associated with release from duty or time off. Due to geographical factors, more than one team may be created.

Section 4.12. Exclusivity

The provisions of this Article shall apply exclusively to the Union except that other unions or employee organizations may continue to receive access to facilities and services or information as

required by Federal and State laws, rules, regulations, and orders or when the Governor or his designated primary representative decides access to facilities and services effectuates the purposes of the law.

ARTICLE 5. WORK TIME, SCHEDULES, OVERTIME AND COMPENSATORY TIME

Section 5.1. Payment for Overtime

The current practice regarding eligibility for overtime shall be maintained.

Employees with the approval of the employer may elect to take compensatory time, paid at time and one-half, or for weather-related emergencies, double time, in lieu of cash payments for overtime. Employees will inform the employer of their choice of cash overtime or compensatory time before working the overtime. Employees will be allowed to declare their election of compensatory time prior to working overtime but in no case more than on a pay period basis. Opportunities for employees to work overtime will not be affected by their election of cash or compensatory time. Employees can accrue up to 240 hours of compensatory time. Employees who work in a public safety activity, emergency response activity, or seasonal activity, can accrue up to 480 hours of compensatory time.

In addition, such employees with the approval of the employer [appointing authority] may request compensatory time in lieu of cash for such holiday work.

An employee's schedule will not be changed to avoid the payment of overtime or accrual of compensatory time. There will be no time limit during which the employee must use his or her compensatory time. Employees shall not be required to use compensatory time. Use of such compensatory time will be granted in a fair and equitable manner. All unused compensatory time will be paid upon an employee's leaving State service or upon death, to the employee's estate, at a rate which is the higher of:

The final regular rate received by the employee; or
The final average regular rate received by the employee during
the last three years of employment.

1. Work time includes time during which an employee:
 - (a) Is on duty, whether at the employee's principal job site or at a remote location as part of the State's Telecommuting Program;
 - (b) Is on paid leave;

- (c) Participates in training activities as a job assignment;
 - (d) Is on the employer's premises and is on call and waiting for work;
 - (e) Is not on the employer's premises, but is on call and waiting for work, and the employee's personal activities are substantially restricted;
 - (f) Is changing into and removing program-specified clothing and equipment necessary for the performance of the job;
 - (g) Participates in activities that are job-related immediately before the beginning or immediately after the end of an assigned shift;
 - (h) Travels to and from work after being recalled to work by the appointing authority or the appointing authority's designated representative after the employee has completed the standard workday;
 - (i) Travels to and from work after being called to work by the appointing authority or by the appointing authority's designated representative on the employee's scheduled day off if the employee works fewer than eight hours as a result of being called on the employee's scheduled day off;
 - (j) Travels between home and a work site other than the assigned office, in accordance with the Standard Travel Regulations;
 - (k) In accordance with this agreement, investigates and processes a disciplinary appeal or grievance, and participates at any conference or hearing relating to a grievance or appeal; or
 - (l) With prior supervisory approval, uses reasonable time to investigate and process a complaint under State Personnel and Pensions Article, Title 5, Annotated Code of Maryland.
2. Work time includes any other time defined as work time under the Fair Labor Standards Act (FLSA), if applicable.
 3. With the exception of those categories of employees cited in the Fair Labor Standards Act, 29 U.S.C. §201 et seq., or as otherwise provided in this agreement, an appointing authority may exclude meal periods and a maximum of 8 hours sleep from consideration as work time for employees who are on duty for more than 24 hours. If the employee's sleep is

interrupted for the performance of work so that the employee is unable to sleep continuously for at least 5 hours, the appointing authority shall consider the entire period of sleep, up to a maximum of 8 hours, as work time.

Section 5.2. Call-Back Pay

Employees who are called to report to work on their regular day off or that have been recalled to work after having left the Employer's premises, shall be guaranteed a minimum of one hour of pay plus travel time at the regular rate of pay for actual hours worked or at the applicable overtime rate, whichever is greater. Employees who are currently guaranteed a minimum of pay greater than one hour shall continue to be paid at the greater minimum. Should the employee be paid for at least eight hours, travel time shall not be paid.

Section 5.3. Report Pay

An employee who is pre-scheduled to work an overtime shift in a 24-hour facility and reports to duty will be guaranteed three (3) hours overtime pay at the appropriate rate unless the employee is a holdover from a previous shift. The employer shall notify employees as soon as practical prior to their scheduled start time in the event the employee is not required to report for prescheduled overtime. Department of Transportation employees will continue to receive the greater benefits under call-back pay when applicable.

Section 5.4. Additional Compensable Work Time

Employees who are authorized by the Employer to perform work via the telephone in an emergency or non-emergency situation, before or after their regularly assigned tour of duty, in excess of *de minimis* time, shall be compensated at the straight time or overtime rate as appropriate and in accordance with the Fair Labor Standards Act. The Employer reserves the right to verify calls and require documentation of the call, including but not limited to: date, time and length of call; time spent addressing the emergency or required work; name of client or contact; reason for the emergency or required work; and signature of employee.

Section 5.5. Stand-By Pay

Employees are entitled to stand-by pay if required to remain on the Employer's premises or so close thereto that he/she cannot use the time effectively for his/her own purposes. Stand-by payment shall be at the regular or overtime rate of pay, whichever is applicable. An employee who is not required to remain on the employer's premises but is merely required to leave word at his/her home or with the Employer where he/she may be reached is not working while on call. If an employee is called back to work, the provisions of Section 5.2 apply.

Section 5.6. Compensatory Time

Those employees who are not eligible for overtime shall earn compensatory time in ½ hour increments beyond their normal workday. In addition, the granting of compensatory time off will not be unreasonably denied.

Section 5.7. Compensatory Time (Non-exempt Employees)

Employees who provide appropriate justification and documentation of time worked at least ½ hour beyond the employee's regular workday shall be credited with compensatory time.

Use of compensatory time shall be governed by the same policies that govern the use of annual leave.

ARTICLE 6. WAGES

Section 6.1. General Wage Increase

A general wage increase consisting of 4% on November 15, 2000 and 4% on January 1, 2002 shall be added to each grade and step of pay plan(s) affecting bargaining unit employees as is illustrated in Addendum 1: Salary Schedule A (Effective July 1, 2000) and Addendum 2: Salary Schedule B (Effective November 15, 2000).

Section 6.2. Shift Differential

The Employer shall pay a shift differential to an employee who works a qualifying shift. A qualifying shift means a full-time or permanent part-time shift which starts at or after 2 P.M. and at or before 1 A.M. The Employer shall pay a shift differential on a prorated basis to an employee who works any part of a qualifying shift. The rate of shift differential pay shall be \$0.625/hour for all classifications in salary grades 1 through 17.

The current practice for Registered Nurses at Perkins will be maintained as stated in the regulations. The Employer will maintain Nursing differential as set forth in COMAR 17.04.02.05.

The Employer may not pay a shift differential to an employee who is on leave.

Section 6.3. Hazardous Duty Pay

The current practice shall be maintained.

Section 6.4. Acting Capacity Pay

- A. An employee designated by an appointing authority to perform on a temporary basis the duties of a position in a classification that has a rate of pay which is higher than that of the employee's classification shall be paid additional compensation. The amount of acting capacity pay shall be the amount which the employee would be paid if permanently promoted to the higher classification unless otherwise provided by law.
- (1) An appointing authority may designate an employee to perform temporary duties in a classification for which the rate of pay is higher than that of the employee's classification for any of the following reasons:
 - (a) The temporary absence of an incumbent;
 - (b) A vacancy exists for which recruitment is underway; or
 - (c) Unusual circumstances which necessitate assignment of duties at a level higher than that of the employee's classification.
 - (2) An appointing authority shall ensure that an employee designated to receive acting capacity pay meets the minimum qualifications of the higher level classification and any special requirements of the position.
 - (3) An appointing authority may not designate an employee to perform temporary duties in a classification for which the rate of pay is higher than that of the employee's classification if both the employee's classification and the higher classification are within the same noncompetitive promotion classification series.
 - (4) Payment for acting in a higher classification shall be made as follows when the employee's normal rate of compensation is:
 - (a) Between grades 1 and 10, additional compensation shall be paid for the period in excess of 10 continuous work days;
 - (b) For grade 11 or above, additional compensation shall be paid for the period in excess of 20 continuous work days.

The initial period of acting capacity is limited to 6 months or less and may be extended for periods of up to 6 months.

- (5) An employee in acting capacity shall not be relieved of such capacity prior to the completion of the waiting period for the purpose of avoiding acting capacity

payment as evidenced by their subsequent return to acting capacity. The Employer shall not rotate employees in an acting capacity position to avoid acting capacity payment nor shall employees be recurrently scheduled in an acting capacity position without compensation unless there are unusual circumstances outside the Employer's control or they volunteer to do so. An employee who is not paid acting capacity pay may not be negatively evaluated on his/her performance in the acting capacity position and may not be disciplined for actions that relate to the acting position taken in good faith. An employee shall not be required to accept an acting capacity assignment if he/she would suffer a loss in pay.

Section 6.5. Pay on Promotion/Reclassification (Effective February 1, 2000)

A. Promotion (Effective February 1, 2000)

When an employee is promoted from a classification with a salary grade to a classification which is one grade higher, the employee shall be placed in the lowest step which provides at least a six (6) percent increase in annual salary, but in no event shall the new rate exceed the maximum in the new grade.

When an employee is promoted from a classification with a salary grade to a classification which is two or more salary grades higher, the employee shall be placed in the lowest step which provides at least a twelve (12) percent increase in annual salary, but in no event shall the new rate exceed the maximum in the new grade.

When an employee is promoted from a classification with a salary grade, slope scale or flat rate to a classification with a slope scale, the employee shall receive a six (6) percent increase in annual salary if the slope scale is the equivalent of one grade higher than the salary grade from which the employee is promoted. An employee shall receive an increase of twelve (12) percent if the slope scale is the equivalent of two or more grades higher than the salary from which the employee is promoted, but in no event shall the new rate exceed the maximum in the new scale.

When an employee is promoted from a classification with a salary grade, slope scale or flat rate to a classification with a flat rate, the employee shall receive the specified flat rate salary.

B. Reclassification (Effective February 1, 2000)

With the exception of the implementation of a new classification, when an employee is reclassified from a classification with a salary grade to a classification which is two or

more salary grades higher, the employee shall be placed at the lowest step which provides at least a twelve (12) percent increase in annual salary, but in no event shall the new rate exceed the maximum in the new grade.

With the exception of the implementation of a new classification, when an employee is reclassified from a classification with a salary grade to a classification which is one grade higher, the employee shall be placed in the lowest step which provides at least a six (6) percent increase in annual salary but in no event shall the new rate exceed the maximum in the new grade.

When an employee is reclassified from one classification to another for which a flat rate is paid, the employee shall receive that flat rate salary.

When an employee is reclassified from one classification to another with the same salary grade or slope scale, the employee's rate of pay shall not change.

When the Employer determines that a job is classified at a higher rate than appropriate, it may reclassify the job to the appropriate lower grade only upon vacancy.

Note: This section does not apply to a reclassification to a lower grade or scale, or demotion.

C. Reclassification Into A New Classification Series (Effective February 1, 2000)

When a position is reclassified as the result of the implementation of a new classification, the employee's step or rate of pay shall be determined by a six (6) percent adjustment.

D. Processing Sequence For Simultaneous Transactions Which Affect Salary

Whenever two or more salary transactions which are effective on the same date for an employee shall be processed in the following sequence:

- (1) Salary adjustment of the employee's classification;
- (2) General increase of the salary schedule;
- (3) Annual step increase; and
- (4) All other transactions including, but not limited to, promotion, reclassification and demotion.

ARTICLE 7 - HOLIDAYS

This Article governs holidays except as otherwise provided by law or regulation.

Section 7.1. Observance

The following holidays will be observed:

New Year's Day
Dr. Martin Luther King Jr.'s Birthday
Presidents' Day
Memorial Day
Independence Day
Labor Day
Columbus Day
Veterans' Day
Thanksgiving Day
Day After Thanksgiving (except DOT)
Christmas
Each Statewide Election Day

Any other day proclaimed as a holiday or non-working day by the Governor of the State of Maryland or the President of the United States of America.

Except for employees required to work on a holiday, when a holiday falls on a Sunday, the

holiday is observed on the following Monday. When a holiday falls on a Saturday, the holiday is observed on the preceding Friday. A holiday will commence at 12:01 A.M. and end at 12:00 Midnight. Upon request, an employee may observe a religious holiday provided that the time off is charged to vacation, compensatory time, personal leave, or leave without pay, at the employee's choice.

Section 7.2. Work on Holidays

An employee who is required to work, or works with prior approval, any part of a holiday shall receive holiday compensatory time for up to eight (8) hours, on an hour for hour basis, for the actual non-overtime hours worked in addition to their regular rate of pay. An employee who works overtime on a holiday shall be compensated in accordance with all applicable pay and overtime provisions in addition to receiving up to eight (8) hours of holiday compensatory time for that work. An employee must use holiday compensatory time within one (1) year after having accrued that time.

An employee including an employee in a 24-hour facility, shall receive payment for the number of holiday hours scheduled, at the employee's regular hourly rate of pay, and time and one-half payment for the number of hours actually worked, if the employee:

1. Is eligible to receive cash overtime;
2. Has holidays prescheduled by the employer; and
3. Is required by the Employer to work a holiday that was designated as a prescheduled holiday for the employee.

This provision shall not apply to an employee who is on unpaid leave during the same pay period as the assigned holiday.

Part-time employees shall be compensated in accordance with all applicable pay and overtime provisions.

No employee's regular shift or days of the workweek shall be changed to avoid holiday pay.

Section 7.3. Other Holiday Provisions

An employee whose regular day off falls on a holiday will receive another day off. If a holiday occurs during a period in which an employee is on pre-approved paid leave, the employee will not be charged for the use of leave for the holiday.

ARTICLE 8. LEAVE ACCRUAL

Section 8.1. Personal Leave

Employees shall be entitled to six (6) days of personal leave each calendar year. Part-time employees shall be entitled to days of personal leave on a prorated basis. For the calendar year in which new employees begin employment, the number of personal leave days will be prorated according to the Code of Maryland, State Personnel and Pensions; Division I, Title 9, Subtitle 4.

Section 8.2. Annual Leave

Employees shall earn annual leave in accordance with the following schedule:

- Less than five (5) years of service - up to ten (10) days per year
- Five (5) to ten (10) years of service - up to fifteen (15) days per year
- Eleven (11) years to twenty (20) years of service - up to twenty (20) days per year
- Twenty (20) years of service or more - up to twenty-five (25) days per year
- The amount will be prorated for employees who work less than full-time.

Section 8.3. Accumulated Annual Leave

Any days of annual leave not used at the end of a year may be carried forward into the next year. Employees may accumulate unused annual leave and may carry over from one year to the next up to fifty (50) days, or four hundred (400) hours. If an employee is denied the opportunity in a calendar year to use annual leave in excess of the fifty (50) days or four hundred (400) hours by his/her appointing authority, the employee shall be permitted to cash out the excess annual leave if funding is available.

Section 8.4. Payment Upon Separation

An employee or an employee's estate, will be paid for all accumulated annual leave upon termination of state service at the time that the employee receives his/her pay check for the final period of work or the next pay period.

ARTICLE 9. LEAVE WITH PAY

Section 9.1. Jury Duty Leave

An employee who is on jury duty is entitled to leave with pay when the employee's jury service occurs on the employee's scheduled workday. Employees who are scheduled on other than a day shift shall be reassigned to a day shift. If, after reporting for jury duty, the employee is dismissed for the day, the employee shall return to work if time permits. An employee who is selected for jury service shall notify the Employer as soon as practical.

Section 9.2. Bereavement Leave

A maximum of five (5) working days may be charged to sick leave in the event of the death of one of the following members of the immediate family: *spouse, children, foster-children, step-children, parents, step-parents, foster-parents of employee or spouse or others who took the place of parents, legal guardians of employee or spouse, brothers and sisters of employee or spouse, grandparents and grandchildren of employee or spouse, other relatives living as a member of the employee's household.*

A maximum of one (1) working day may be charged to sick leave in the event of the death of one of the following relatives: *aunts and uncles of employee or spouse, nephews and nieces of employee or spouse, brothers-in-law and sisters-in-law of employee's spouse and sons-in-law and daughters-in-law.*

The employee may elect to receive up to three (3) days of bereavement leave in lieu of three (3) of the five (5) sick days upon the death of the following family members: *spouse, children, foster-children, step-children, parents, step-parents, foster-parents, brothers or sisters, or grandparents and grandchildren of the employee.*

If additional time is required by the employee, the supervisor shall make reasonable efforts to arrange the work so that the employee may take other accrued leave for this purpose.

Section 9.3. Legal Action Leave

An employee who is summoned to appear in a court action, before a grand jury, before an administrative agency, or for a deposition and is neither a party to the action nor a paid witness, may be absent from work without loss of pay or charge against any leave, unless the employee is currently on suspension. For purposes of this section, a stipend, travel allowance or meal allowance shall not be considered as pay.

An employee who is summoned to appear in a court action, before a grand jury, before an administrative agency, or for a deposition and is a party to the action or a paid witness, may use other accumulated leave, unless the employee is currently on suspension.

An employee who is a party to an action against the State, or its agents, is considered to be on duty for grievances, disputes, or disciplinary appeals before the Office of Administrative Hearings or any actions before the Labor Relations Board. An employee who is not on paid leave or approved leave without pay, shall be considered to be on duty when attending a Worker's Compensation Hearing.

Section 9.4. Military Leave

Any employee who is a member of a reserve component of the Armed Services or in the organized militia shall be permitted military leave with pay for up to fifteen (15) working days per year for training. To be eligible, the employee must provide the employing agency with a copy of the orders from his/her unit.

Section 9.5. Weather-Related Emergencies

In addition to the "Procedure for Release of State Employees Under Emergency Conditions," revised December 6, 1996, authorized by Executive Order 01.01.1981.10, when:

- 1) A governmental jurisdiction, authorized to do so, declares a weather-related emergency, which prohibits all non-emergency vehicle travel on specified roadways, and such declared emergency is in the home jurisdiction, a jurisdiction along the route, or the jurisdiction of the work location, as determined by the official personnel records of an employee, thereby proscribing the employee's ability to get to work, such employee shall be granted administrative leave because of the weather-related emergency, unless the Employer provides transportation to the work location. Employees shall notify the appropriate designated contact person as early as feasible but normally at least one hour before the start of their shift of the weather-related emergency constraint on their travel, unless the emergency has been declared at the employees' work location. Essential employees shall notify the appropriate designated contact person as early as feasible but normally at least one hour before the start of their shift of the weather-related emergency constraint on their travel.
- 2) A non-state governmental jurisdiction declares a weather-related emergency which closes a facility where State employees work, such employees shall be granted administrative leave for such a weather-related emergency.

In accordance with Executive Order 01.01.1981.10 and the procedure referenced above, employees who are required to work during a declared emergency situation will be credited with two hours of work time for each hour they actually work during the designated weather-related emergency. The designated emergency situation shall be for the duration of the emergency, and not limited to a particular time of day.

Essential employees will be notified of their essential status no later than December 1st of each year. The Employer retains the ability to notify new hires after December 1st, or declare additional employees as essential when necessary, to avoid or mitigate serious damage to public health, safety or welfare.

In situations of actual or potential weather conditions, the Employer may declare a liberal leave,

delayed arrival (up to two hours of excused tardiness) or early release policy. Any current practice regarding extra compensation for employees when an emergency is declared necessitating the granting of emergency release time, shall be maintained.

Section 9.6. Examinations and Interviews for State Positions

An employee shall be allowed up to 4 hours leave with pay to take examinations and attend interviews for State positions. The appointing authority may:

- 1) require prior approval of the interview or examination leave request;
- 2) require verification of the examination taken or interview or examination attended; and,
- 3) limit the number of interviews and time allotted, when abuse is apparent.

Section 9.7. Professional Meetings and Workshops

To the extent consistent with the operational needs of the Employer, employees will be granted time off with pay, not to exceed their normal work day to attend professional meetings and workshops that are "job-related." The Employer may, but is not required to, reimburse the costs associated with these meetings and workshops. Leave under this provision shall not be arbitrarily denied. Should the Employer require the employee to attend, the cost of such training will be paid by the Employer.

However, if the employer requires the employee to attend a workshop, the cost shall be paid by the employer.

Section 9.8. Disaster Service Leave

Requirements for leave with pay.

- a) On request an employee subject to this section may be entitled to disaster service leave with pay if:
 - 1) the employee is certified by the American Red Cross as a disaster service volunteer; and
 - 2) the American Red Cross requests the services of the employer during a disaster that is designated at Level II or above in the regulations and procedures of the National Office of the American Red Cross.
- b) Amount allowed: An employee may use up to 15 days of disaster service leave in any twelve (12) month period only after obtaining approval from the employee's appointing

authority.

- c) Employment status for purposes of certain claims. For purposes of Worker's Compensation and the Maryland Tort Claims Act, while an employee is using disaster service leave, the employee is deemed not to be a State employee.

ARTICLE 10. SICK LEAVE

Section 10.1. Accrual (Sick Leave)

Employees shall earn fifteen (15) days or one hundred twenty (120) hours of sick leave each year. Employees shall earn 1.5 hours of sick leave for every 26 hours worked in non-overtime status. For this purpose, all paid leave will be considered work time. Part-time employees will earn sick leave on a prorated basis. There is no limit on the number of days of sick leave an employee can accrue.

Section 10.2. Eligibility

In accordance with State law, employees are entitled to sick leave with pay:

- a) for illness or disability of the employee;
- b) for death, illness, or disability of a member of the employee's immediate family;
- c) following the birth of the employee's child;
- d) when a child is placed with the employee for adoption; or
- e) for a medical appointment of the employee or a member of the employee's immediate family.

"Immediate family" is defined in accordance with COMAR 17.04.11.06.

Section 10.3. Notification

When an employee is unable to work due to circumstances provided in Section 10.2, the employee or employee's designee will notify his/her immediate supervisor or designee at the worksite at a time as established by existing agency policy/practice, unless extenuating circumstances preclude this notification. When an employee calls in accordance with established practice or policy, he/she shall leave a message if the supervisor or supervisor's designee is unavailable, or the Employer may instruct an employee to call a secondary number, and the employee will not be required to call back. The employee or designee must call each day of absence until the employee notifies the Employer of a date he/she will return to duty. The Employer shall not ask the employee to provide information as to his/her diagnosis or condition except as permitted by applicable law.

Section 10.4. Certificate of Illness for Absences for Five or More Consecutive Days

The Employer may require an employee to provide an original certificate of illness or disability only in cases where an absence is for five (5) or more consecutive workdays or in accordance with the procedures described in Section 10.5 below. The Certificate required by this Section shall be signed by a health care provider in accordance with applicable law (SP&P 9-504).

Section 10.5. Certificate of Illness for Absences of Less than Five Consecutive Days

The Employer may require an employee to submit documentation of sick leave use on the following conditions:

- A. When an employee has a consistent pattern of maintaining a zero or near zero sick leave balance without documentation of the need for such relatively high utilization; or
- B. When an employee has six (6) or more occurrences of undocumented sick leave usage within a twelve (12) month period. Sick leave use that is certified in accordance with this Article shall not be considered as an occurrence.

Section 10.6. Procedures for Certification Requirement

Prior to imposing a requirement on an employee for documentation of sick leave use, the Employer shall orally counsel the employee that future undocumented absences may trigger a requirement for certification of future instances of sick leave. If the employee has another undocumented absence after such counseling, the Employer may then put the employee on written notice that he/she must certify all sick leave usage for the next six (6) months if the undocumented absences accumulate in accordance with Section 10.5. At the conclusion of the six (6) months, the certification requirement will be rescinded provided the employee has complied with the certification requirement. If the employee has not complied with the certification requirement, the requirement shall be extended for six (6) months from the date of the lack of compliance with the requirement. Although a requirement for certification is not a disciplinary action, an employee may grieve allegations of misapplication of this procedure.

Section 10.7. Chronic Conditions

Employees who suffer from chronic or recurring illnesses or disabling conditions which do not require a visit to a health care provider each time the condition is manifested, shall not be required to provide certification for each absence provided a general certification is provided unless the absence is for five (5) or more consecutive days. Such frequent absences shall also not be used as the basis for a certification requirement. Unless the employee has a condition identified as a permanent disabling condition, the Employer may require certification and follow-up reports from a health care provider no

more frequently than every six (6) months of the continued existence of the chronic condition.

Section 10.8. Acceptable Documentation

For the purposes of absences of less than five (5) consecutive days, acceptable documentation shall consist of the following:

- A. A certificate from a health care provider that the employee (or member of the employee's immediate family) visited the office and/or the employee was unavailable for duty for the reasons specified in Section 10.2 on the day or dates of absence. For absences of four (4) hours or less, at the employee's option, he/she may submit a copy of the universal health insurance claim form or similar document from the health care provider's office showing the name of the provider, the date of treatment, and address/telephone number of the provider.
- B. An employee who works less than his/her full work day due to having to provide care to the employee's child or member of his/her immediate family shall not be required to provide certification from an acceptable health care provider unless management has a basis to believe sick leave is being used for a purpose other than described in Section 10.2 above. Sick leave use in such circumstances shall not count as an occurrence under Section 10.5.

Section 10.9. Disciplinary Action

The Employer may take appropriate disciplinary action against an employee for using sick leave for purposes other than described in law or this Agreement; for failing to properly notify the Employer of the use of sick leave, or failure to provide appropriate documentation when properly required to do so.

The Employer may not penalize an employee with regard to scheduling, overtime eligibility, performance evaluations or other right or benefit for sick leave usage or for being subject to a documentation requirement. This does not preclude appropriate disciplinary action for use of sick leave for purposes other than described in Section 10.2. The procedures described in this Article, and disciplinary procedures, shall be the sole procedures available to address issues related to sick leave use and abuse.

Section 10.10. Incentive Program

An employee may cash out forty (40) hours of unused sick leave per calendar year if the employee used no more than forty (40) hours of sick leave during the year and had a sick leave balance of at least 240 hours on December 31 of that year. An employee may cash out 56 hours of sick leave per calendar year if the employee used no more than 24 hours of sick leave during the year and had a

sick leave balance of at least 240 hours on December 31. For purposes of determining eligibility for cash out, sick leave that is donated or is used for a death in the family does not count as sick leave usage but will affect an employee's balance. The incentive program will be pro-rated for part-time employees. The program shall be effective for calendar year 2000, subject to legislative approval.

Section 10.11. Sick Leave Utilization Reduction Goal

The Employer and the Union agree to a goal of reducing sick leave utilization by 10% from the utilization rate in Fiscal Year 2000 to Fiscal Year 2001. If this goal is not met, or the reduced utilization rate is not maintained in subsequent fiscal years, either party may reopen negotiations over this Article.

ARTICLE 11. LEAVE BANK AND LEAVE DONATION PROGRAM

Section 11.1. Membership in the State Employees' Leave Bank Program

A new employee may donate one day (eight hours) of Personal Leave to the State Employees' Leave Bank within the first sixty (60) days of their employment. All other employees may donate one day (eight hours) of Annual, Personal, or Sick Leave to the State Employees' Leave Bank during the open enrollment period. Sick Leave may only be donated if the employee has a balance of 240 hours after the donation. The employer shall hold an open enrollment period during the health insurance open enrollment period.

Section 11.2. Access to Leave Bank

An employee becomes eligible for the State Employees' Leave Bank 90 days following the initial donation to the bank. Membership in the State Employees' Leave Bank is for two years, unless the leave in the bank is exhausted, at which time all employees will be notified and given the option of rejoining by donating an additional day. In these cases, employees who had served the 90-day waiting period for eligibility will not be required to serve an additional waiting period. Eligibility for use of leave from the bank will be determined in accordance with existing policy (COMAR).

Section 11.3. Employee to Employee Leave Donation Program

An employee may voluntarily donate annual, sick or personal leave to another employee who has exhausted all available leave because of a serious and prolonged medical condition. The donating employee shall designate the recipient. Eligibility to receive Employee to Employee Leave shall be determined in accordance to the same criteria as existing policy (COMAR) specifies for use of leave from the Leave Bank. Except as indicated below, the recipient may only use the leave for an illness or disability that exists at the time of the donation. Subject to legislative approval of this provision, employees who currently have a negative advanced sick leave balance may liquidate the balance by employee to employee leave donation.

ARTICLE 12. HEALTH BENEFITS

Section 12.1. Medical Plans

The Employer will maintain the current health and dental insurance programs and practices. The Employer shall contribute 80% of the premium charge for PPO plans, 85% of premium for POS and HMO plans, 80% for the prescription drug plan and 50% for the dental plan.

Section 12.2. Vision Plan

The Employer will make available to full-time and part-time employees, the current vision plan as set forth in 1999 document "Summary of Health Benefits, Maryland State Employees". The vision program will be administered through the Health Benefits Plans.

The Employer will discuss with the Union potential changes for the vision plan in time to have any changes incorporated in calendar year 2001.

Section 12.3. Term Life Insurance

The Employer will maintain and make available to full-time and part-time employees, the current term life insurance plan as set forth in the 1999 document "Summary of Health Benefits, Maryland State Employees."

Section 12.4. Personal Accidental Death and Dismemberment Plan

The Employer will maintain and make available to full-time and part-time employees, the current personal accidental death and dismemberment plan as set forth in the 1999 document "Summary of Health Benefits, Maryland State Employees."

Section 12.5. Health Insurance Portability and Accountability Act of 1996

The Employer shall not elect to be excluded from subparts 1 and 2 of the Health Insurance Portability and Accountability Act of 1996.

Section 12.6. Health Insurance Advisory Council

The Governor will appoint the Union's one (1) nominee, representing all bargaining units where the Union is exclusive representative, to the Health Insurance Advisory Council as established in COMAR, SPPA 1, Title 1, Subtitle 5.

Section 12.7. Open Enrollment

The Employer will conduct an open enrollment period each year at which time eligible employees shall be able to enroll in a health plan, continue enrollment in their current plan, or switch to another plan. Unless there is a mandatory open enrollment, employees who take no action during open enrollment will automatically be re-enrolled in their current plans and coverage. The Employer shall ensure that health benefit fairs are held during open enrollment, that such fairs are well publicized and scheduled to facilitate employee attendance, and that the Union be provided with space at such fairs. Open enrollment information and forms will be available to all employees and the Union in a timely manner. State agencies will make a good faith effort to mail open enrollment information to any employee who, on the first day of open enrollment, is scheduled to be on approved leave for more than 80% of the open enrollment period.

Section 12.8. Death Benefit

A death benefit in the amount of \$100,000 shall be paid to the surviving spouse, children or dependent parents (as defined in SP&P Section 10-404) of any State employee who is killed in the performance of job duties.

A death benefit may not be paid under this section if an employee is killed as a result of the employee's negligence.

ARTICLE 13. TRAVEL

Section 13.1. Personal Vehicles

Except as may otherwise be provided in this Agreement, State policy with regards to the use of personal vehicles for State business shall be continued.

Section 13.2. Travel Time & Mileage

1. All time expended by employees as they move from one job location to another shall be considered as work time.
2. For the purposes of determining travel time and mileage reimbursement for travel between the employee's home and a worksite other than the employee's local worksite, the Employer and the Union will determine at the department LMC how to assign "local" work sites for staff who are assigned to the field, but are budgeted centrally. The Labor Management Committee shall be guided by the principle of utilizing, at a minimum, the closest local health department.

3. If the employee uses his/her vehicle for such travel, the employee shall be reimbursed for the mileage incurred at thirty-one cents per mile (Note: effective July 1, 2000).
4. Employees who use their own cars for state business shall be permitted to work without a car when their cars are not available. Employees shall be permitted three (3) such days per year. For routine servicing needs or in non-emergency situations employees must obtain prior approval and work without their cars subject to operational need.

Section 13.3. Per Diem & Lodging

Employees required to travel overnight will be reimbursed the overnight lodging and meal costs incurred in accordance with applicable regulations promulgated by the Secretary of Budget and Management. Employees required to travel but not overnight will be reimbursed for meal costs in accordance with applicable regulations.

Section 13.4. Travel Advances

Employees may apply for and receive a travel advance prior to embarking on state travel if adequate funding is available in accordance with applicable regulations promulgated by the Comptroller of the Treasury.

Section 13.5. Taxi, Road, Bridge, Parking Fees and Other Travel Matters

Taxi, road, bridge and parking fees, business telephone calls, or other transportation and travel costs incurred by an employee on official state business will be reimbursed by the Employer in accordance with applicable regulations.

Section 13.6. Reimbursement

The Employer will reimburse employees for transportation and travel expenses in an expeditious manner.

ARTICLE 14. TRAINING AND EDUCATION

Section 14.1. In-Service Training

Whenever employees participate in, in-service training programs, with employer approval, they will be given time off from work to attend such programs. Travel time will be reimbursed, in excess of the employee's normal, round-trip commute. The cost of such training will be paid by the Employer.

Section 14.2. Professional Development

When an approved course is offered only during an employee's working hours, an employee may receive up to six hours per week of release time to attend "job-related" training. The term "job-related" includes preparation for potential promotion as well as improvement in currently utilized skills and knowledge. Leave under this provision shall not be arbitrarily denied.

Section 14.3. Accreditation, Licensure Or Certification

Employees who are assigned or volunteer and are approved by the Employer to assume additional duties in their job classifications which requires accreditation, licensure, or certification, shall be granted time off with pay, consistent with the operational needs of the Employer, and be reimbursed for any cost associated with the accreditation, licensure, or certification.

When an approved course or workshop is offered only during an employee's working hours, the employee shall be given release time with pay to attend "job-related" training. Leave under this provision shall not be arbitrarily denied.

Except as may be otherwise required, the Employer may, but is not required to, reimburse the costs of employees who are required to maintain accreditation, licensure or certification as a minimum qualification for the position.

Section 14.4. Tuition Reimbursement

Those agencies that have tuition reimbursement shall continue their current policy, practice, and funding level. Additionally, a total of \$300,000 for fiscal year 2001 and \$350,000 for fiscal year 2002 shall be provided for the use of all agencies as of January 1, 2000. To the extent the employer is able, it will track the amount of reimbursement provided to bargaining unit employees by agency and provide a report to the Union on an annual basis.

An employee seeking tuition reimbursement shall submit a written request stating the course and the cost of tuition. The level of reimbursement per credit shall be limited to the per credit charge at the University of Maryland, College Park for graduate and undergraduate courses. All courses that are "job related" are eligible for reimbursement. The term "job related" includes courses in preparation for potential promotion, courses that are a part of a degree program that is "job related", as well as, courses that enhance currently utilized skills and knowledge. Upon approval of an employee's application for reimbursement, the reimbursement funds shall be set aside and provided to the employee, if the employee completes all required paperwork by the specified time and receives a grade of "C" or better in the course, or passes the course if offered on a pass/fail, or certificate of completion. Tuition funds shall be set aside on a first come-first serve basis. However, an employee in an approved longer term program shall have first priority for reimbursement. Employees who were denied reimbursement in the previous fiscal year based on fiscal limitations, shall have next priority.

ARTICLE 15. EQUIPMENT

Section 15.1. Health and Safety

The Employer shall provide employees with reasonable safety equipment devices and supplies needed to ensure employee health and safety.

The Employer shall provide Community Health Nurses with interpreters and/or escorts when it is deemed necessary by management for home visits.

Section 15.2. Equipment and Supplies

The Employer shall provide all necessary equipment and supplies that Management or State licensing or regulatory agencies deem necessary to enable employees to carry out their duties.

Principal work sites for community health nurses shall be provided with reference books that may be required.

Sufficient cell phones and spare batteries will be provided at principal work sites for use of all Community Health Nurses and Facilities Surveyors working outside of the Community Health Office on any given day. One, or more, large Blood Pressure Cuffs shall be available for use by Community Health Nurses at each principal work site.

The lack of supplies or equipment shall not constitute a right by the employee to refuse to work except in such cases where the lack of such supplies or equipment would constitute a direct specific hazard to the employee's health and safety.

Section 15.3. Computer Access

The State will strive to provide all facilities' surveyors with laptop computers and software to allow them to connect to the Department's LAN from remote locations.

ARTICLE 16. WORK STOPPAGES

It shall be a violation of this Agreement for the Union to engage in a strike or work stoppage against the State of Maryland. The Union shall forfeit its status as the exclusive representative of employees in this bargaining unit if the Union engages in a strike or work stoppage against the State of Maryland.

ARTICLE 17. JOB CLASSIFICATION

Section 17.1. Job Study

When an employee, or at the request of the employee, his or her Union representative or supervisor believes that a position is incorrectly classified, a request may be submitted to study the position. Such study shall be completed in a timely manner unless a study of the job in question has been completed within the previous twelve months and the job duties have not changed. The employee and requested Union representative will be provided with a copy of the Employer's findings upon request. The Employer will apply its established classification standards and guidelines in a fair and equitable manner.

Section 17.2. Grade and Pay Changes

Prior to implementing a change in grade or pay for a particular classification or job series or before implementing a new classification or job series, the Employer will meet with the union and exchange relevant information and negotiate per this agreement.

ARTICLE 18. REQUESTS FOR PERSONAL AND ANNUAL LEAVE

Section 18.1. Short-term Leave

Employees may request the use of short-term leave at any time. Short-term leave shall include annual leave, compensatory time use and personal leave in twenty-four hour facilities. Such request shall be submitted on the appropriate form and approved, or denied, on the form within one week of submission to the appropriate authority (practices of shorter time periods will be maintained) except that current practices concerning emergency leave requests shall be maintained. Requests will not be denied unreasonably. Personal leave in other than twenty-four hour facilities shall not be governed by this article. The current practice shall govern such personal leave.

Section 18.2. Guidelines for Short-term Leave - Departmental LMC

The departmental Labor Management Committee (LMC) shall develop guidelines for allowing local LMCs to develop rules for the scheduling of short-term leave by which the issue of more employees requesting the use of short-term leave than can be granted, because of operational needs, shall be resolved. However, neither the departmental nor local LMC may alter these benefits as provided by this agreement.

Section 18.3. Guidelines for Short-term Leave - Local LMC

The local LMCs will develop rules to deal with the issue prescribed in Section 18.2 above.

Following development, these rules will be forwarded to the Union and the Department for approval. If the rules are not approved, they will be returned to the local LMC for appropriate adjustment. At any time, local LMCs may review and revise the rules they have developed if it is determined that the rules cause unintended discrimination, fail to meet the operational needs at the work site, or are otherwise determined to be unworkable. Any rights and privileges concerning the scheduling of the use of short-term leave shall be maintained unless changed by the local LMC.

Section 18.4. Approved Vacation Leaves

The Employer will not cancel vacation periods (vacation periods are approved 30 days in advance).

Section 18.5. Pay While On Vacation

If an employee going on vacation desires that his/her paycheck be mailed to a given address during the vacation, he/she may make a written request to this effect. Such request shall be honored provided a self-addressed envelope is included with the written request.

ARTICLE 19. SAVINGS

Should any part of this Agreement be declared invalid by operation of law or by a tribunal of competent jurisdiction, the remainder of the Agreement shall not be affected but shall remain in full force and effect. In the event any provision is thus rendered invalid, upon written request of either party, the Employer and the Union shall meet promptly and negotiate a substitute for the invalid Article, Section or portion thereof.

ARTICLE 20. EMPLOYEE ASSISTANCE PROGRAM

Section 20.1. Employee Assistance Program (EAP)

The Employer and the Union recognize the value of counseling and assistance programs to those employees whose personal problems affect performance of their job duties and responsibilities. Therefore, the Employer agrees to continue the existing Employee Assistance Program.

Section 20.2. Labor-Management Advisory Committee

The Union and the Employer agree to form a joint labor-management committee on employee assistance. The committee will be composed of an equal number of representatives from the Union and the Employer. The committee will review the EAP, EAP provider networks and EAP training programs for employees and supervisors.

Section 20.3. Confidentiality

Records regarding treatment and participation in the Employee Assistance Program shall be confidential and retained by the Employee Assistance Program.

In cases where the employee and the Employer have entered into a voluntary Employee Assistance Program Participation Agreement in which the Employer agrees to defer discipline provided that the employee participates in the Employee Assistance Program treatment program, the employee shall be required to waive confidentiality by signing appropriate releases of information to the extent required to enable the Employee Assistance Program to provide the Employer with reports regarding compliance or non-compliance.

In cases of supervisor referral to the Employee Assistance Program, records shall be released to the Employer solely in reference to the ability of the employee to perform the job safely and effectively and or whether, or not, the employee needs to participate in the program.

In addition, with regards to supervisor referrals as provided in the previous paragraph, the Employer shall be informed of the employee's compliance or non-compliance in the Employee Assistance Program.

ARTICLE 21. WITHIN GRADE INCREASES

Section 21.1. Governing of Within Grade Step Increases

This Article and appropriate law, regulation or procedure governs within grade step increases.

Section 21.2. Requirements for Denial of Step

An employee may not be denied a step pay increase for reasons of performance unless substantial performance deficiencies exist and the employee's performance is rated as below standards on the employee's mid-year or final performance appraisal forms. The Employer may only withhold a step increase if the affected employee has been notified and the Performance Evaluation Process has been adhered to by the Employer.

Section 21.3. Notification of the Employee

When the Employer determines that an employee's performance warrants withholding of a step increase, it shall notify the employee in writing and

1. identify the specific incidents of unacceptable performance including reference to performance standards/behavioral elements;

2. provide a description of what the employer will do to assist the employee and a description of what the employee must do to improve the allegedly unacceptable performance during the opportunity period.

Section 21.4. Employees at Risk

If, at anytime an employee's performance is considered to be at a level which jeopardizes his/her eligibility to receive a within grade increase as scheduled, the supervisor shall notify the employee in writing as soon as possible. Unless the deficient performance warranting the denial of the increase occurs late in the evaluation period, such notice shall be sufficiently in advance in order to provide the employee with an opportunity to improve performance and become eligible for the within grade increase. Failure to notify the employee per this Article, or failure by the Employer to adhere to the Performance Evaluation Process shall not entitle the employee to a within grade increase if the employee's performance does not warrant it.

ARTICLE 22. LEAVES WITHOUT PAY

Section 22.1. General Leave

The Employer may grant general leaves of absence to employees, upon request, for periods not to exceed two (2) years. Such leave will be approved or denied in a fair and equitable manner. Reinstatement will be governed by COMAR.

Section 22.2. Unpaid Union Leave

Upon request of the Union's President or designee, the employer will grant leaves of absence without pay to bargaining unit employees who serve as Union representatives or officers for up to a thirty (30) calendar day period if it is consistent with operational needs. This leave will be for no more than one-time per year per employee and no more than eight employees per year who must be from different Departments. An employee's entrance on duty date will not be changed, he/she will not be separated from payroll, and he/she will be restored to his/her previous position at the conclusion of such leave.

Section 22.3. Educational Leave

Employees may be granted educational leave for up to two (2) years to attend an accredited educational institution, including colleges, universities, trade schools, technical schools, or high schools. Such leave will be approved or denied in a fair and equitable manner. Reinstatement will be governed by COMAR.

Section 22.4. Military Leave

If an employee enters military service or is called to active duty, his/her employment will be separated with the right to reemployment in accordance with applicable law and regulation.

Section 22.5. Family and Medical Leave

The Employer shall provide employees with the benefits of the Family and Medical Leave Act on a fair and equitable basis in accordance with applicable law and regulation.

Section 22.6. Injury/Illness Leave

Employees may be granted a leave of absence for a documented temporary illness or disability when there is medical documentation evidence that the employee can return to his/her full range of duties within six (6) months. The employer will grant or deny such request on a fair and equitable basis. Such employees will not be separated from the payroll and will be restored to their positions within the six month period.

ARTICLE 23. EMPLOYEE FACILITIES

Section 23.1. Water and Restroom Facilities

Sanitary drinking water will be provided to all employees and all employees will have access where possible to a fully equipped and clean restroom in reasonable proximity to their place of employment. Where possible, in institutional settings, restrooms will be set aside for the exclusive use of employees.

Section 23.2. Personal Property

For employees who are required to wear uniforms or other special attire or equipment, the Employer will provide a secure place for employees to store their personal wearing apparel and other personal items where possible.

Section 23.3. Eating Areas

For employees who have an unpaid lunch (dinner) break, the Employer will provide employees with an area suitable for eating in reasonable proximity to their work area wherever possible. In institutional settings wherever possible, the eating area shall be away from residents, patients, inmates and students.

ARTICLE 24. HEALTH AND SAFETY

Section 24.1. General Duty

The Employer will provide, to the extent possible, safe, secure, healthful working conditions for all employees. The Employer agrees to comply with the federal Occupational Safety and Health Act (OSHA) and all other applicable federal, State and local laws and regulations, and departmental safety rules and regulations. All employees shall comply with all safety rules and regulations established by the Employer.

Section 24.2. Unsafe Conditions

In accordance with 29 CFR §1977, occasions might arise when an employee is confronted with a choice between not performing assigned tasks or subjecting himself/herself to serious injury or death arising from a hazardous condition at the workplace. If the employee, with no reasonable alternative, refuses in good faith to expose himself/herself to the dangerous condition, he/she shall be protected against subsequent discrimination. The condition causing the employee's apprehension of death or injury must be of such a nature that a reasonable person, under the circumstances then confronting the employee, would conclude that there is a real danger of death or serious injury and that there is insufficient time, due to the urgency of the situation, to eliminate the danger by resorting to regular statutory enforcement channels. In addition, in such circumstances, the employee, where possible, must also have sought from his employer, and been unable to obtain, a correction of the dangerous condition.

Section 24.3. Health and Safety Committees

In order to provide a safe and healthful workplace, local unit level LMCs shall establish Health and Safety Committees. Each committee will be composed of an equal number of representatives appointed by the Union and the Employer and will be co-chaired by a Union and Employer representative. A Union representative must be a member of the unit but either party may be accompanied by staff and/or other subject matter experts who may participate, but not vote, at meetings. Each party shall prepare and submit an agenda to the other party one week prior to any scheduled meeting. If neither party submits an agenda, the meeting shall be canceled.

Each committee's general responsibility will be to provide a safe and healthful workplace by recognizing hazards and recommending the abatement of hazards and educational programs. Each committee will:

- meet on an established schedule;
- arrange periodic inspections to detect, evaluate and offer recommendations for control of potential health and safety hazards;
- appoint members of the committee to participate in inspections, investigations, or other established health and safety functions to the extent necessary;
- receive and review a quarterly summary of job-related health and safety reports including accident reports and make appropriate recommendations;
- investigate all types of employee job-related accidents and all types of occupational

- illnesses and make recommendations;
- promote health and safety education;
- study the use of VDTs and make appropriate recommendations to ensure the health and safety of employees regarding such use;
- maintain and review minutes of all committee meetings; and
- review the availability and adequacy of first aid supplies and equipment and address any inadequacies.

In cases where summary reports are provided, a committee member may request and receive an individual case file or report. In no case will an employee's records be provided when the law forbids disclosure. In addition, employees' names will normally be deleted but may be provided to all committee members in instances where committee members need to know the name(s) of employee(s) to effectively represent the bargaining unit(s) and disclosure of name(s) is not prohibited by law. The Employer may require committee members and union representatives to sign confidentiality statements.

Members of each Health and Safety Committee will be paid by the Employer while performing committee duties, including travel time, and will also be paid for any time spent in committee approved training related to health and safety. The Committee will develop an annual training program for its members.

Each Health and Safety Committee will establish rules consistent with the above principles. A mechanism to coordinate the efforts of individual Health and Safety Committees will be established at each agency.

Section 24.4. Personal Protective Clothing and Equipment

The Employer will provide all personal protective clothing and/or equipment that is required by applicable laws, regulations, and policies. The Employer shall purchase or provide reasonable reimbursement to employees who are required to wear non-prescription safety glasses. For employees who wear prescription glasses, where non-prescription glasses do not provide adequate protection, the Employer shall provide reasonable reimbursement for prescription safety glasses.

Section 24.5. Communicable Diseases

Employees will be provided with information on all communicable diseases to which they may have routine workplace exposure. Training provided to employees will include the symptoms of the diseases, modes of transmission, methods of self-protection, proper workplace procedures, special precautions, recommendations for immunization and any relevant regulations, guidelines and CDC recommended precautions.

Employees who have any contact with blood and other body fluids will be offered Hepatitis B vaccinations at the Employer's expense.

Any screening of incoming clients, residents or inmates in health care facilities or residential or correctional institutions for communicable diseases will be performed according to relevant Centers for Disease Control (CDC) guidelines. If a resident or inmate is found to carry a communicable disease, all appropriate precautions will be taken.

The Employer will comply with the latest CDC guidelines on post exposure treatment whenever an employee receives an exposure, while on duty, to potentially infectious blood or body fluids. In instances of employee misconduct or gross negligence as related to on duty exposures, CDC guidelines on post-exposure treatment will apply. However, the Employer may seek discipline and/or damages as allowed by law.

Section 24.6. Cardiopulmonary Resuscitation (CPR) Training

Ongoing CPR training will continue to be provided in accordance with current practice at Employer cost. The Employer will develop emergency facility evacuation plans and provide appropriate training, including fire drills.

Section 24.7. Ergonomics/Back Injury Prevention

The Employer and the Union shall establish an Ergonomics Committee which shall consider and make recommendations on methods to prevent injuries.

Section 24.8. Staffing Levels

To the extent legislative appropriations and PIN authorizations allow, safe staffing levels will be maintained in all institutions where employees have patient, client, inmate or student care responsibilities. In July of each year, the Secretary or Deputy Secretary of each agency will, upon request, meet with the Union, to hear the employees' views regarding staffing levels. In August of each year, the Secretary or Deputy Secretary of Budget and Management will, upon request, meet with the Union to hear the employees' views regarding the Governor's budget request.

Section 24.9. Asbestos

All employees who work with or around asbestos shall have the proper required training and personal protective equipment where necessary. When an asbestos hazard is discovered, employees shall be promptly notified of the existence and location of the hazard.

Section 24.10. Workplace Violence

The Employer, in cooperation with the Union, shall develop a comprehensive workplace violence prevention program. As a part of this program, the Employer will provide training in handling violent

and aggressive patients, customers, inmates, and co-workers. Such training shall be provided at least annually to all Unit E employees who deal with patients in DHMH facilities, and to all employees in Juvenile Justice and Public Safety positions, who come in contact with inmates or juvenile offenders. Other employees shall receive such training at a frequency to be decided by the appropriate health and safety committee.

In the event an employee is threatened or attacked, he/she may take appropriate legal action and will be released from duty with pay for the time necessary to file the report.

Where armed security personnel are deployed, such personnel will escort employees to their vehicles after normal business hours upon request.

Section 24.11. Indoor Air Quality

The Employer shall ensure healthful workplace air quality and attempt to ensure comfortable air temperature in buildings it owns and in space that it leases.

Section 24.12. Reproductive Hazards

Any pregnant employee assigned to work in an environment that may be harmful to the pregnancy or to the fetus may request reassignment to alternative work, at equal pay, within her department. Such environments include, but are not limited to, exposure to toxic substance such as ethylene oxide or lead, communicable disease such as cytomegalovirus or rubella, physical hazards, or where there is a reasonable expectation of violence against the employee. Management shall assess any suspected hazard on a case by case basis. The Employer shall attempt to accommodate such a request.

Section 24.13. Physical Exams

The Employer agrees to provide without cost to employees, physical examinations and/or other appropriate tests when such tests are deemed necessary by management to determine whether the health of employees is being or has been adversely affected by exposure to potentially harmful physical agents, toxic materials, or infectious agents, or by attacks and assaults.

The Employer agrees to provide to each affected employee who requests it a complete and accurate written report of any such medical examination or other appropriate tests related to occupational exposure. Additionally, written results of any industrial hygiene measurements or investigations related to an employee's occupational exposure will also be provided, upon request, to the employee or the employee's authorized representative. The Union and/or members of the applicable Health and Safety Committee will be provided copies of summary reports, but such reports will not contain personally identifying information.

Section 24.14. Duty to Report

All employees who are injured or who are involved in an accident during the course of their employment must fill out an accident report within three business days on forms furnished by the Employer.

Section 24.15. Vehicle Inspection

All State agencies must have a formal vehicle inspection program for State vehicles to assure that vehicles are clean, properly equipped, maintained, and in good repair. Each program must provide for:

1. the designation of a responsible official for the program and notification to the Union and employees of the name and contact information of that individual;
2. inspections conducted at least every six months;
3. maintenance of inspection records at agency headquarters and allowance for inspection by any employee or the Union;
4. correction of unsatisfactory conditions within seven (7) days and such action shall be recorded on the inspection sheet.

ARTICLE 25. PERFORMANCE EVALUATION

Section 25.1. Intervals Between Appraisals

Employees shall receive written performance appraisals at six (6) month intervals according to their entry-on-duty date. There will be a mid-year appraisal and an end-of-year appraisal which will include a performance rating. Performance ratings are as follows:

1. Outstanding
2. Exceeds Standards
3. Meets Standards
4. Needs Improvement
5. Unsatisfactory

Section 25.2. Performance Standards

Performance standards and behavioral elements shall be specific, attainable, relevant measurable and fully consistent with an employee's duties, responsibilities and grade as described in his/her job description. Standards and behavioral elements will be job and outcome related, not personal trait related. Standards and behavioral elements shall be provided to an employee in writing, signed by both the employee and supervisor, at the outset of the rating period and changed during the period only after review with the employee. Performance outcomes considered to be "outstanding" and "exceeds standards" shall be described for each performance standard and behavioral element.

If an employee does not have an opportunity to perform work described by a standard or element, that standard/element will not be considered in the performance appraisal process. If an employee performs assigned duties not specified by his/her MS22, such additional duties shall be given due consideration.

Standards and behavioral elements will be applied fairly, objectively and equitably. The Employer shall take into account equipment and resource problems, lack of training, frequent interruptions, and other matters outside of an employee's control when applying standards/ behavioral elements to performance. Pre-approved time away from the job including sick leave, personal days, annual leave, compensatory time, and authorized duty time for union representational purposes and other authorized activities will not be considered negatively in the application of performance standards and behavioral elements. Evaluations shall fully take into account such approved absences in a measure of timeliness and quantity of work.

Section 25.3. Appraisal Procedure

An employee's direct supervisor will prepare a mid-year performance appraisal. Employees will be given a five (5) business day prior notification of the scheduled evaluation in order to prepare his/her self-evaluation. An employee shall prepare a self-assessment that includes the following:

1. an evaluation of his/her performance;
2. suggestions for how he/she and their supervisor can enhance their contributions to their work unit's mission, goals and objectives; and
3. suggestions for training.

Employees and their supervisors will review and discuss an employee's job performance for the purpose of promoting agreement and understanding and to help the supervisor determine the overall performance rating for the end-of-year appraisal. In addition, the discussion is intended:

1. to develop modifications to the employee's job description, if necessary;
2. to establish specific written tasks and standards/behavioral elements, based on measurable and objective standards, to accomplish during the next appraisal period in order to meet the overall objectives of the position; and
3. to identify training needs, if any, for the next appraisal period.

Section 25.4. End-of-Year Appraisal

The employee shall have the opportunity to review his/her evaluation with his/her supervisor and receive a signed copy before it is sent to the appointing authority for final review and approval. The end-of-year appraisal, which the appointing authority will approve before it is final, shall include the following:

1. performance rating;
2. specific tasks the employee needs to achieve during the next appraisal period and performance standards/behavioral elements;
3. modifications to the employee's job description, if any; and
4. recommendations for training to enhance the employee's skills, if any.

The Employer will not prescribe a forced distribution of levels for ratings for employees covered by this Agreement. No quotas or other limitations shall be applied to employee ratings.

The supervisor responsible for the end-of-year appraisal must have been the employee's supervisor for at least 180 days. If such is not the case, the second level supervisor shall prepare the appraisal. If an employee is transferred, he/she shall be given an exit appraisal and it shall be used in conjunction with his/her new supervisor's appraisal unless the employee has been working under the new supervisor for at least six months and the employee and Employer mutually agree not to use the former supervisor's appraisal. When both appraisals are used, they shall be averaged in accordance with the number of months evaluated by each appraisal.

An appointing authority may change an employee's end-of-cycle final evaluation only with written justification which cites the employee's performance standards/behavioral elements and the employee's actual performance. Any changes to the original evaluation shall be attached to the original evaluation initially reviewed by the employee. The supervisor shall give employees a copy of the end-of-year appraisal and a copy will be placed in the employee's personnel file. Any statement of an employee's objection to an appraisal or comment shall be attached to the evaluation and put in his/her personnel file.

Section 25.5. Appraisals of Supervisors

Employees shall evaluate, anonymously, the performance of supervisors who have at least five (5) employees assigned to them.

Section 25.6. Performance Appraisal Task Force

Employer and the Union shall establish a performance appraisal task force that shall be responsible for monitoring the effectiveness of the appraisal process, defining any performance standards that remain undefined and recommending any necessary changes.

ARTICLE 26. DISCIPLINARY ACTIONS RELATED TO EMPLOYEE PERFORMANCE

Section 26.1. Authority to Discipline

The appointing authority may discipline an employee for reasons related to the employee's performance.

Section 26.2. Responsibility of Appointing Authority Before Imposing Discipline

Before an employee may be disciplined for performance-related reasons, the appointing authority, or designee shall:

1. Investigate the employee's performance history, including the employee's most recent performance appraisals;
2. Notify the employee in writing of the deficiency and provide an explanation of the employer's position. The notice shall include:
 - a. Specific instances of unacceptable performance by the employee on which the proposed action is based;
 - b. the performance standards/behavioral elements of the employee's position involved in each specification of unacceptable performance;
 - c. a description of the efforts made by the employer to assist the employee in improving performance.
3. Meet with the employee to hear the employee's explanation, unless the employee is unavailable or unwilling to meet; and
4. If the employee does not improve in accordance with the plan, the appropriate progressive discipline will be determined. The employee will be given written notice of the disciplinary action to be taken, the employee's appeal rights, and inform the employee of the effective date of the disciplinary action.

Section 26.3. Right to Rescind Discipline

Between the time an appointing authority notifies the employee of the disciplinary action and the time of the imposition of the discipline, the appointing authority may rescind the discipline.

Section 26.4. Time Limits for Imposing Discipline

Except in the case of an annual performance appraisal, within 30 days after the appointing authority acquires knowledge of performance-related reasons for which disciplinary action may be imposed, the appointing authority shall take each of the actions required in Section 26.2 of this article. The time period may be extended for any time that the employee is unavailable.

Section 26.5. Time Limits on Annual Performance Appraisals

In the case of an annual performance appraisal, the appointing authority shall impose discipline within 30 days after the time period specified in Section (26.6) of this Article.

Section 26.6. Performance Appraisals

1. Performance appraisals must be performed in accordance with established PEP policy and standards.
2. When an employee has been given an overall rating of “needs improvement” on an annual performance appraisal, the employee’s supervisor shall inform the employee that the employee has 180 days from issuance of the rating to improve to the level of “meets standards.” Failure to meet standards, at the end of the 180 day period shall result in the employee’s termination. The employee’s development plan will be completed to identify the following:
 - a. an identification of the performance standards/behavioral elements for which performance is unacceptable;
 - b. a description of what the Employer will do to assist the employee and a description of what the employee must do to improve the unacceptable performance during the opportunity period;
 - c. a statement that the employer and the employee will meet approximately midway through the 180 day period to evaluate the employee’s progress toward meeting standards.
3. When an employee has been given an overall rating of “unsatisfactory” on an annual performance appraisal, the employee’s supervisor shall inform the employee that the employee has 90 days from issuance of the rating to improve to the level of “meets standards.” Approximately midway through the 90-day period, the employee and the employee’s supervisor shall meet to evaluate the employee’s progress toward meeting standards. Failure to meet standards at the end of the 90-day period shall result in the employee’s termination.
4. An employee may not receive an overall rating of “unsatisfactory” on the employee’s annual performance appraisal unless the employee already received an overall “unsatisfactory” rating on the employee’s previous mid-year appraisal.
5. Under the provisions of State Personnel and Pensions Article, §8-107, Annotated Code of Maryland, an employee may not be denied a pay increase unless substantial reasons of performance were cited on the employee’s mid-year or final performance appraisal forms.

ARTICLE 27. PERSONNEL FILE

Section 27.1. Official Personnel File

Only one (1) official personnel file shall be kept for each employee at the appropriate personnel office.

Records of previous discipline greater than a written reprimand not found in the official personnel file cannot be used against an employee in any future disciplinary proceeding.

A signature log shall be attached to the file and all those who view the file, except for employees responsible for such files, shall be required to sign and date it.

Grievances shall not be kept in the employee's official personnel file.

Employees shall be informed as to where their personnel file is maintained.

Section 27.2. Access

An employee and, with the employee's written authorization, a representative(s) shall have the right to review his/her personnel files upon request, during normal business hours, with no loss of pay. Employees have the right to copy any documents in his/her file. The employee may be required to assume reasonable costs of copying.

Section 27.3. Notification

From the effective date of this memorandum, any derogatory material to be placed in an employee's personnel file will be initialed and dated by the employee and a copy provided to him/her. If the employee refuses to sign, material shall be placed in the file with a note of the employee's refusal. The employee's initials indicate simply that he/she has seen the material. In addition, any derogatory material which is placed in an employee's personnel file without following this procedure will be removed from the file and returned to the employee.

Section 27.4. Anonymous Materials

Other than routine personnel forms, no anonymous materials shall be placed in an employee's official personnel file.

Section 27.5. Rebuttal

Employees shall have the right to respond in writing and/or through grievance procedure to any materials placed in their official personnel file. Any written response by the employee shall be appended to the appropriate document.

Section 27.6. Work Files

Supervisors may keep working files, but records of previous discipline not found in the official personnel file cannot be used against an employee in any future disciplinary proceeding.

ARTICLE 28. DRUG AND ALCOHOL TESTING

Section 28.1. Prior Notification

Drug and alcohol testing shall be done in a fair and equitable manner in strict observance of all applicable laws and regulations. All employees subject to such testing shall be so informed.

Section 28.2. Employee Notice of Use of Alcohol

- (a) Employees who are called in to work outside of their regularly scheduled hours shall be provided the opportunity to notify their supervisor that they have consumed alcohol within the previous four hours.
- (b) The employees who make an acknowledgment under paragraph (a) may not be subject to disciplinary action and may not be assigned to perform a safety-sensitive function.

ARTICLE 29. LAYOFFS AND SEPARATIONS FOR LACK OF APPROPRIATION

Section 29.1. Layoff/Separations

The Employer agrees that prior to deciding a layoff, or a separation for lack of appropriations, the Employer will consider all of its reasonable alternatives. Prior to imposing a layoff or a separation for lack of appropriations, the Employer will meet with the Union in an effort to develop appropriate arrangements for affected employees. All layoffs shall be in strict conformance with applicable law and regulation including State Personnel and Pension Article §11-206 regarding seniority points. All separations for lack of appropriations shall be in strict conformance with applicable law and regulation, including State Personnel and Pensions Article Title 11, subtitle 3.

ARTICLE 30. DISCIPLINARY ACTIONS

Disciplinary Actions and Appeals shall be governed by SP&P laws, regulations, policies and this

Agreement. Disciplinary actions shall be consistent with the principles of just cause.

Section 30.1. General

Except as otherwise expressly provided by law, the Employer has the burden of proof by preponderance of the evidence in any disciplinary action. After taking disciplinary action against an employee, the Employer may not impose an additional disciplinary action against that employee for the same conduct unless additional information is made known to the Employer after the disciplinary action was taken.

Section 30.2. Disciplinary Actions Permitted

The Employer may take the following disciplinary actions against any employee:

1. give the employee a written reprimand;
2. direct the forfeiture of up to 15 work days of the employee's accrued annual leave;
3. suspend the employee without pay;
4. deny the employee an annual pay increase;
5. demote the employee to a lower pay grade; or
6. with prior approval of the head of the principal unit (Secretary of Department);
 - (i) terminate the employee's employment, without prejudice, or ;
 - (ii) if the Employer finds that the employee's actions are egregious to the extent that the employee does not merit employment in any capacity with the State, terminate the employee's employment, with prejudice.

Section 30.3. Automatic Termination of Employment

The following actions are causes for automatic termination of employment:

1. intentional conduct, without justification that:
 - i) seriously injures another person,
 - ii) causes substantial damage to property, or
 - iii) seriously threatens the safety of the workplace;
2. theft of State property of a value greater than \$300;
3. illegal sale, use or possession of drugs on the job;
4. conviction of a controlled dangerous substance offense by an employee in a designated sensitive classification;
5. conviction of a felony;
6. accepting for personal use any fee, gift or other valuable thing in connection with or during the course of State employment if given to the employee by any person with the

- hope or expectation of receiving a favor or better treatment than that accorded to other persons;
7.
 - i) violation of the Fair Election Practices Act; or
 - ii) using, threatening, or attempting to use political influence or the influence of any State employee or officer in securing, promotion, transfer, leave of absence, or increased pay; or
 8. wantonly careless conduct or unwarrantable excessive force in the treatment or care of an individual who is a client, prisoner, or any other individual who is in the care or custody of this State.

Section 30.4. Duty of the Employer Prior to Imposing Sanctions

- A. The State agrees with the tenets of progressive discipline. Similarly situated employees will be treated similarly regarding the application of disciplinary actions, provided, however, that the employer will consider mitigating circumstances.
- B. Procedures - Before taking any disciplinary action related to employee misconduct, the Employer shall:
 1. investigate the alleged misconduct;
 2. meet with the employee (to discuss the alleged misconduct and the evidence of the misconduct);
 3. consider any mitigating circumstances;
 4. determine the appropriate disciplinary action, if any, to be imposed; and
 5. give the employee a written notice of the disciplinary action to be taken and the employee's appeal rights.
- C. Time Limits - An appointing authority may impose disciplinary action no later than 30 days after the appointing authority acquires knowledge of the misconduct for which the disciplinary action is imposed.
- D. Suspension:
 - (1) An appointing authority may suspend an employee without pay no later than five (5) workdays following the close of the employee's next shift after the appointing authority acquires knowledge of the misconduct for which the suspension is imposed.
 - (2) Saturdays, Sundays, legal holidays, and employee leave days are excluded in calculating the five (5) workday period.
- E. Except for employees working for a law enforcement agency and other exceptions

authorized by law, an employee may not be required to submit to a polygraph test.

- F. Termination of probationary employees is covered by appropriate Law, Regulations, and /or Policy.

Section 30.5. Actions Which Do Not Constitute Disciplinary Actions

A. Counseling Memoranda:

1. Issuing a counseling memorandum is an instructional communication and is not a disciplinary action.
2. Within 5 days after receiving a counseling memorandum, an employee may submit to the Employer a written response to the memorandum. The response shall be placed in the employee's personnel file and attached to any record of the memorandum.
3. An employee may not take any other action in response to a counseling memorandum except in MDOT, counseling letters are grievable.

B. Leave Without Pay:

1. Placing an employee on leave without pay when the employee is absent without approval is not a disciplinary action.
2. An employee who is placed on leave without pay for an unapproved absence also may be subject to disciplinary action for the unapproved absence.

C. Restitution:

1. Requiring an employee to make restitution to the State for loss or damage to State property due to an employee's negligence is not a disciplinary action.
2. The Employer may not require an employee to pay restitution exceeding 3% of the employee's annual base pay.
3. Ordering an employee to make restitution under this subsection shall not immunize the employee from civil or criminal action against the employee by the Employer.

Section 30.6. Right To Representation

The Union shall be given the opportunity to represent an employee at a meeting with management in connection with an investigation or discussion of a disciplinary or potential disciplinary action if the employee reasonably believes that the meeting may result in disciplinary action.

Management shall allow reasonable time for the union representative to attend said meeting, but in no case less than one (1) hour.

Section 30.7. Other Procedures

- A. Negotiation and bargaining permitted - this Article does not preclude the Employer and an employee from agreeing to:
 - 1. Holding in abeyance a disciplinary action for a period not to exceed 18 months in order to permit the employee to improve conduct or performance.
 - 2. Imposition of a lesser disciplinary action as a final and binding action.
- B. Failure to appeal - if an employee fails to appeal a decision in accordance with law, regulation, or policy, the employee is considered to have accepted the decision.
- C. Time limits - the parties may agree to waive or extend any time stated in law.
- D. Resolution of appeal encouraged - each party shall make every effort to resolve an appeal at the lowest level possible.
- E. A failure to decide an appeal in accordance with law is considered a denial from which an appeal may be made.

Section 30.8. Retention of Records

After 24 months without any further disciplinary action, the record of any prior disciplinary action, up to and including suspensions of five (5) days shall be expunged at the employee's request. After 12 months, letters of a reprimand and counseling memorandum shall not be used in assessing discipline if there has been no further disciplinary action.

Section 30.9. Excessive Absenteeism, Tardiness or Abuse of Sick Leave

Except that the employees shall have the right to use the leave benefits provided to them under this Agreement, it is understood that excessive absenteeism, excessive tardiness, or the abuse of sick leave may constitute cause for discipline.

ARTICLE 31. DISPUTE RESOLUTION PROCEDURE

Section 31.1. Definitions

Subject to any limitations of existing law, a complaint is defined as a dispute concerning the application or interpretation of the terms of this MOU. The provisions of this procedure shall be the only procedure for complaints concerning interpretation or application of the MOU. Disciplinary grievance appeals otherwise appealable through procedures established by law or regulation are not subject to this procedure.

Section 31.2. Procedure

Complaints regarding the MOU shall be presented and adjusted in the following manner.

Step One

Within fifteen (15) days after the event giving rise to the complaint or within fifteen (15) days following the time when the employee should reasonably have known of its occurrence, the employee aggrieved and/or the Union representative shall discuss the dispute with the employee's immediate supervisor. The Supervisor shall attempt to adjust the matter and respond orally to the employee and/or the Union representative within three (3) days.

Step Two

If the dispute has not been settled at step one, a written complaint may be filed and presented to the employee's appointing authority and/or designee within seven (7) days after receiving the step one response. A Union representative must sign the complaint. The appointing authority or designee shall meet with the employee and the employee's Union representative and render a decision in writing no later than twenty (20) days after receiving the complaint.

Step Three

If the complaint has not been settled at step two, a written complaint may be filed with the Head of the Principal unit within seven (7) days after receipt of the answer at step two. The Head of the Principal unit or designated representative shall meet with the employee and the Union representative and render a written decision within twenty (20) days after receiving the written appeal. When the appointing authority is also the Head of the Principal unit, this step shall be skipped and the step two decision shall be appealed directly to step four.

Step Four

If the dispute has not been settled at **step three**, President of the Union, or his/her designee, may invoke a factfinding procedure by providing written notice of intent to appeal to the party denying the grievance at Step Three within thirty (30) days of the Step 3 response. When factfinding is invoked, the Union and Employer shall jointly request a list of seven (7) neutral factfinders from the Federal Mediation and Conciliation Service (FMCS). The parties will meet within fifteen (15) days of receipt of the FMCS list to seek agreement on one of the listed factfinders. This meeting may take place by telephone. If the parties cannot agree on a factfinder, the Employer and the Union will alternately strike one name from the list until a single name remains. A flip of a coin shall determine who shall strike the

first name.

The factfinder shall resolve all questions related to the procedure. Upon mutual agreement of the parties, threshold issues may be resolved prior to the parties proceeding with the substantive issues involved in the case. The cost of the factfinder shall be shared equally by the parties.

Appeal of Factfinder's Decision

If the Employer or the Union disagree with the factfinder's decision, an appeal may be filed with the State Labor Relations Board within thirty (30) days of receipt of the decision in accordance with the Board's regulations. Only the Union's President, or his/her designee or the Governor's designated collective bargaining representative may appeal a factfinder's decision.

Section 31.3. General Provisions

- A. As used in this Article, "days" means calendar days. If the last day a response or action is due falls on a Saturday, Sunday, or State holiday, the deadline shall be extended to the next non-holiday weekday. All deadlines in this Article may be extended by mutual agreement. Time limits for the processing of complaints are intended to expedite dispute resolution and, if not extended, must be strictly observed. If the matter in dispute is not resolved within the time period provided for in any step, the next step may then be invoked. If the employee or Union fail to pursue any step within the time limits provided, he/she shall have no further right to continue to seek resolution of that dispute.

A failure by management to provide a response in the time required shall be deemed a denial of the complaint. A failure to appeal such denial within ten (10) calendar days of the date a response was due shall constitute a withdrawal of the complaint except that the Union shall have thirty (30) days from the date the response was due to invoke step four. The Employer shall ensure that its supervisors and representatives do not repeatedly fail to respond to complaints in a timely manner and shall also ensure that its designees are authorized to settle matters subject to the complaint.

- B. If a dispute arises from the action of an authority higher than the immediate supervisor, such dispute may be initiated at the appropriate step of this procedure.
- C. Each agency shall provide the Union with a list (including telephone number, fax number and mailing address) of its appointing authorities and Heads of Principal units (or designees).
- D. Only designated Union representatives may represent employees or file appeals under this procedure. For purposes of this Article, stewards, Union staff and Union officers shall be considered designated Union representatives. The Union will provide a list of the names of the aforementioned (to include telephone numbers, fax numbers and mailing addresses) to the

Executive Director of the Office of Personnel Services and Benefits. An employee's complaint must be signed by a Union representative of the Maryland Federation of Nurses and Health Professionals (MFNHP).

- E. Stewards and Union representatives referred to in this procedure shall be granted reasonable time off with pay during working hours to process grievances pursuant to this Article. If possible, meetings scheduled pursuant to this Article shall be scheduled at a mutually agreeable time during the regular working hours of the Union representative and Employer representative, but such meetings may be waived by mutual agreement. If the Union and Employer representative do not work on an overlapping schedule, the meeting shall be scheduled during regular day shift hours and, upon request of the Union representative, his/her schedule shall be adjusted if it is consistent with operational needs without regard to the restrictions in Article 5, "Work Time, Schedules, Overtime and Compensatory Time". There shall be no overtime or compensatory time earned for the processing of a complaint or attendance at a meeting under this Article.
- F. A written complaint shall state the issues including a citation to the relevant portion of the MOU allegedly being violated.
- G. Each party shall make every effort to resolve a dispute at the lowest level possible.

ARTICLE 32. MISCELLANEOUS

Section 32.1. Rules, Regulations, Policies and Practices

To the extent that this Agreement addresses matters covered by existing or future administrative rules, regulations, guidelines, policies or practices, that are mandatory subjects of bargaining, management agrees to make any necessary changes in the rules, etc. References in this Agreement to "COMAR," "rules," or "regulations," is understood by the parties to be negotiable when consistent with the law and the provisions of this agreement.

Section 32.2. Preservation of Benefits

The Employer agrees not to make changes to State statutes, administrative rules, regulations, guidelines or policies that are mandatory subjects of bargaining per the law until negotiated in accordance with this agreement.

Section 32.3. Contractual Employees

It is the goal of the State not to fill positions currently held by bargaining unit employees with

contractual employees.

ARTICLE 33. LABOR MANAGEMENT COMMITTEES

Both the Employer and the Union have an interest in maximizing the effectiveness of operations, the delivery of quality services and the promotion of satisfied work forces. To further this interest, the parties endorse the labor-management committee process as an appropriate means to identify and understand workplace issues and develop viable solutions. The Union and the Employer intend to foster an ongoing, communicative relationship in which the parties are encouraged to speak freely and resolve issues within the labor-management forum. The Employer and the Union shall cooperate in using training and other mutually agreed upon methods, within available resources, to assist statewide, department and local level LMCs to be effective.

The number of attendees at each level shall be mutually agreed to and meetings will take place on work time.

Statewide LMCs

- The Executive Director of the Department of Budget and Management's Office of Personnel Services and Benefits shall meet with Union representatives periodically to discuss and attempt to resolve matters of mutual concern. Such meetings shall be held at least monthly at mutually agreeable times and locations.

Department Level LMCs

- Department Secretaries and/or Deputy Secretaries shall meet with Union representatives periodically to discuss and attempt to resolve matters of mutual concern. Such meetings shall be held at least quarterly at mutually agreeable times and locations.
- Subjects which may be discussed at such meetings may include, but are not limited to: questions concerning implementation and administration of this Agreement which are departmental in nature, questions concerning the scheduling of employee workdays within the established work week, distribution and posting of job postings, continuity of employment, institution of alternative work week schedules, staff development and training issues and other matters as mutually agreed.
- Written agendas shall be exchanged by the parties no less than seven days before the scheduled date of each meeting. At the time of the meeting, additional subjects for discussion may be placed on the agenda by mutual agreement.
- Department-level labor management committees that have reviewed an issue, but have been unable to agree on the disposition of that issue, may refer that issue to the state LMC.

Facility/Institution/Local LMCs

- Facility, institution or agency CEOs (or the equivalent) shall meet with Union representatives periodically to discuss and attempt to resolve matters of mutual concern. Such meetings shall be held at least every other month at mutually agreeable times and locations.
- Subjects which may be discussed at such meetings may include, but are not limited to: questions concerning implementation and administration of this Agreement which are local in nature, questions concerning the scheduling of employee workdays within the established work week, distribution and posting of job postings, continuity of employment, institution of alternative work week schedules, staff development and training issues and other matters as mutually agreed.
- Written agenda shall be exchanged by the parties no less than seven days before the scheduled date of each meeting. At the time of the meeting, additional subjects for discussion may be placed on the agenda, by mutual agreement.
- If a facility or local-level LMC is unable to agree on the disposition of that issue, it may refer that issue to the departmental LMC.

ARTICLE 34. NEGOTIABILITY

The Employer and the Union acknowledge their mutual obligation to negotiate as defined and required by law over Employer proposed changes in wages, hours and other terms and conditions of employment, not specifically covered by this Agreement and affecting bargaining unit employees. In the event the State intends to make a change which would alter any benefit or policy not covered by this memorandum or where this memorandum refers to current practices and where the intended change would alter current practices in more than one agency, the Union shall be given notice of such change and such change shall not become effective until the State and the Union have met in formal negotiations. If the intended change to current practices would impact on employees in only a single agency, the matter shall be referred to the department LMC before implementation. It is understood that the Employer may implement its proposed changes even if there has not been mutual agreement, or as required to meet a Legislative mandate, or in an emergency situation.

DURATION

Except as otherwise provided herein, this M.O.U. shall become effective upon signing and remain in effect until June 30, 2002. This M.O.U. shall be automatically renewed from year to year thereafter unless either party provides written notification to the other by October 1 of the calendar year prior to expiration of its intent to terminate, modify, or amend this M.O.U.

This M.O.U. is hereby accepted by the parties on this day:

Month

Day

Year

For the State Signed:

(Name) T. Eloise Foster

Secretary
(Title)

Dept. of Budget & Management
(Agency)

(Date)

For MFNHP Signed:

(Name) Debra Perry

President
(Title)

MFNHP/AFT
(Organization)

(Date)